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in the town and county named, to said V. a quantity of ardent spirits, not exceeding 4½ gallons, and that said spirits was unlawfully sold, not to be delivered at the place of purchase, or within the town, or within one mile outside of the corporate limits thereof, but that accused unlawfully shipped such ardent spirits by express to V., without then and there having a license to do so. Held, that the indictment was sufficient, being laid in the language of the statute.

[Ed. Note.—For other cases, see Indictment and Information, Dec. Dig. § 110.* 7 Va.-W. Va. Enc. Dig. 413-414; id. 418.]

2. Intoxicating Liquors (§ 6*)—Regulation—Police Power.—Under its police power to enact laws to promote the public safety, health, and morals, the Legislature may regulate and control traffic in intoxicating liquors.

[Ed. Note.—For other cases, see Intoxicating Liquors, Cent. Dig. § 4; Dec. Dig. § 6.* 8 Va.-W. Va. Enc. Dig. 6.]

3. Commerce (§ 63*)—Intoxicating Liquors—Regulations.—Acts 1910, c. 190, authorized the issuance of a retail license and a retail and shipper's license, for the sale of intoxicants, and provides that a retail license shall permit the sale of intoxicants to any individual, to be delivered at the place of purchase, or to any place within the city, town, county, or district, or within one mile outside of where the license is granted, and nowhere else within the state, and that the retail and shipper's license shall confer the additional privilege of shipping by express or otherwise. Held, that the Legislature had power to regulate the sale of liquor by the imposition of a reasonable license, even though it be intended for shipment without the state, and the statute was valid though construed as prohibiting one merely having a retail license from shipping liquor without the state.

[Ed. Note.—For other cases, see Commerce, Dec. Dig. § 63.* 14 Va.-W. Va. Enc. Dig. 581.]

Error to Circuit Court, Tazewell County.

H. J. Ferrimer was convicted of unlawfully selling intoxicants, and brings error. Affirmed.

Sexton & Roberts, for the plaintiff in error.

Attorney-General Samuel W. Williams, for the commonwealth.

STULL et al. v. HARVEY et al.

Nov. 16, 1911.

[72 S. E. 701.]

1. Appeal and Error (§ 100*)—Judgments Appealable—"Final Decree."—In a suit to restrain a sale of property under a trust deed, a decree directing the clerk to pay the trustee's attorneys a fee out

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

of certain funds belonging to the grantor on the motion to dissolve the injunction, and referring the case to the master to take an account showing what part of the expenses claimed by the trustee other than counsel fees should be allowed as a charge against the trust estate, was not a "final decree" from which an appeal would lie, under the rule that a final decree is one which disposes of the whole subject, giving all the relief that is competent, and leaves nothing to be done by the court.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 670-680; Dec. Dig. § 100.* 1 Va.-W. Va. Enc. Dig. 437.]

For other definitions, see Words and Phrases, vol. 3, pp. 2774-2798; vol. 8, p. 7663.]

2. Trusts (§ 227*)—Trustee—Protection of Trust Estate—Employment of Counsel—Authority.—It being the duty of a trustee to protect the trust estate from waste, invasion, or trespass, and to defend suits against him with respect to the trust subject, he has implied power to employ counsel therefor at the expense of the trust fund.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 324; Dec. Dig. § 227.* 2 Va.-W. Va. Enc. Dig. 167; 13 id. 359.]

3. Trusts (§ 227*)—Trustee—Powers—Employment of Counsel.—Where grantors in a deed of trust filed a bill to enjoin the trustee from making a sale thereunder, to which the beneficiary, who was sui juris, was also a party, the trustee had no interest in the litigation, and could not therefore employ counsel at the expense of the trust to defend the suit.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 324; Dec. Dig. § 227.* 14 Va.-W. Va. Enc. Dig. 137.]

Appeal from Circuit Court, Augusta County.

Suit by A. M. Stull and another to restrain O. B. Harvey and others from the foreclosure of a trust deed. From a decree awarding certain costs and expenses to the trustee, complainants appeal. Reversed and remanded.

John T. Delaney, for the appellants.

Timberlake & Nelson and *O. B. Harvey*, for the appellees.

CARDWELL, J., absent.

CRAWFORD v. FLOYD.

Nov. 16, 1911.

[72 S. E. 711.]

1. Taxation (§ 788*)—Tax Deed—Recitals—Effect—Statutes.—Code 1904, § 661, provides that when a tax deed has been recorded the title shall vest in the grantee, subject to defeat only by proof

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.